

Can't Afford a Lawyer for your Appeal?

The Appellate Pro Bono Program May Be Able to Help!

- **YOU MAY BE ELIGIBLE FOR LEGAL ASSISTANCE:**

Percent of Poverty Guidelines (Monthly)		
Family Size (Household)	125%	250%
2	\$1,518	\$3,036
3	\$1,907	\$3,814
4	\$2,297	\$4,594

- **If your income is 0-125% of the poverty level**, you may qualify for free legal assistance when filing or defending against a family law or specific civil law appeal. For more information, contact:
 - Community Legal Services- Volunteer Lawyers Program (VLP)
 - 602-258-3434; <http://www.clsaz.org/site/what-we-do/how-to-apply-for-services>
 - **If your income is 125-250% of the poverty level**, you may qualify for one-hour of legal assistance for \$75 when filing or defending against a family law or specific civil law appeal. For more information, contact:
 - Modest Means Project
 - 866-637-5341; <https://azlawhelp.org>
 - **If you do not qualify under these income levels**, you can still access informational resources to assist in filing your appeal at: <http://www.cofad1.state.az.us/>.
- **THIS PROGRAM WILL NOT:**
 - Extend or change appeal deadlines.
 - Guarantee representation.

This program ONLY applies to appeals filed in the Arizona Court of Appeals, Division One. Appellate Pro Bono Services will be offered for Family Law and specific Civil Appeals only.

- If you do not qualify under these income levels, you can still access informational resources to assist in filing your appeal at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/>.
- In addition, you can access The Guide for Self-Represented ("Pro Se" or "Pro Per") Appellants and Appellees at: <http://www.cofad1.state.az.us/>.

Appellate Pro Bono Pilot Program in Maricopa County

I. Objectives of the Pilot Program

- a. The Appellate Pro Bono Pilot Program in Maricopa County is being implemented to ensure access to appellate justice for all persons, regardless of economic status. The program is designed to assist pro per litigants who cannot afford legal counsel in navigating through appellate procedure and adhering to formal court requirements. This assistance also should increase the efficiency of the Arizona Court of Appeals in handling pro per appeals by reducing the expenditure of additional resources currently used to understand and appropriately respond to the briefs. Finally, the program will facilitate lawyers in meeting their ethical obligation to render pro bono legal services and provide a meaningful opportunity for practitioners to gain appellate experience.

II. Length of Pilot Program:

- a. The Pilot Program's duration will be one year starting on February 1, 2011 and concluding January 31, 2012. During the last three months of the pilot period, the program will be evaluated to determine its effectiveness to make necessary changes for its continued implementation in Maricopa County and possible expansion to other counties.

III. Types of Cases

- a. This program only extends to appeals filed in the Arizona Court of Appeals, Division One. Appellate Pro Bono Services will be offered for Family Law and Civil Appeals. This program will not provide Pro Bono Services for Special Actions, Industrial Commission, Juvenile (including parental severance), Unemployment Board or Criminal matters.

IV. Organizations Involved

- a. Arizona Court of Appeals, Division 1
- b. Volunteer Lawyers Program (VLP)
- c. Community Legal Services (CLS)
- d. Arizona Foundation for Legal Services & Education- Modest Means Program
- e. Arizona State Bar Appellate Practice Section

V. Qualifications

- a. In order to qualify for pro bono appellate legal services, the pro per litigant must be indigent. This will be determined by the following criteria:
 1. To qualify for appellate pro bono services from the VLP, the litigant's income must be 125% of the poverty level or less.

To qualify for appellate pro bono services from the Modest Means Program at a reduced cost of \$75 per hour, the litigant's income must be between 125%-250% of the poverty level.

2. INSERT COMBINED 125% and 250% OF POVERTY LEVEL TABLE HERE

VI. The Program's Structure and Process

a. Appellant Files Notice of Appeal in the Superior Court

- i. To provide notice of the Pro Bono Appellate Program to litigants, the Court of Appeals will request that the Clerk of the Superior Court append a description of the program to the judgment or first mailing responsive to the notice of appeal. The description will include contact information for Volunteer Lawyers Program of Arizona, the Modest Means Program, and the economic qualifications required for each program.
- ii. Upon the Court of Appeals receipt of the initial package, the Clerk of the Court of Appeals will include in the first responsive mailing a reference to the program and direction to court's website for additional information, including contact information for Volunteer Lawyers Program of Arizona, the Modest Means Program, and the economic qualifications required for each program.
- iii. Information about the program will also be placed at the Superior Court Self-Service Center and on the Court of Appeals, Supreme Court, and Arizona Judicial Branch websites.

b. Intake of Potential Pro Bono Clients

- i. In order to be considered for the program, a litigant must fill out an Application for Assistance and send it to VLP or the Modest Means program. This Application will request information on financial need in order to assess the litigant's eligibility for this program.
- ii. Each application will be screened by VLP and Modest Means, respectively, to determine eligibility of services.
- iii. If the litigant does qualify for the program, the litigant may participate in a webinar on appellate procedure or view an on-site video describing appellate procedure before meeting with an attorney.

c. Pro Per Litigant Meeting with a Lawyer (*VLP and Modest Means Providing Information on their Processes; will update when information is received)

- i. Litigants who qualify for assistance under VLP:
 1. Each litigant who qualifies for the program will be given the opportunity to meet with a volunteer attorney. The volunteer lawyer

will use this meeting to determine what services the client needs, including assistance with understanding appellate procedures, brief writing, or formal pro bono legal representation.

2. Client confidentiality and attorney-client privilege will be created for the purpose of this limited meeting and the litigant will be notified of such protections and their significance. The litigant will also be notified that the volunteer attorney is not undertaking formal representation, and the litigant will be required to sign a form indicating knowledge and consent to the limited nature of this meeting.
3. After the meeting, the volunteer attorney will make a written recommendation designating the type of any further legal services warranted.
4. The attorney will be covered by VLP's malpractice insurance during representation.

ii. Litigants who qualify for assistance from the Modest Means program:

1. Each litigant who qualifies for the program will be given the opportunity to meet with a volunteer attorney. The volunteer lawyer will use this meeting to determine what services the client needs, including assistance with understanding appellate procedures, brief writing, or formal pro bono legal representation.
2. This meeting will generate a limited attorney-client relationship. Client confidentiality and attorney-client privilege will be created for the purpose of this limited meeting and the litigant will be notified of such protections and their significance. The litigant will also be required to sign a form stating that he or she was informed of and consents to the limited relationship.
3. After the meeting, the volunteer attorney will make a written recommendation designating the type of any further legal services warranted.
4. The attorney will be covered by Modest Mean's malpractice insurance during representation. (*Need to confirm with Modest Means.)

d. Guaranteed Oral Argument if Requested

- i. If a volunteer attorney appears on behalf of the client in the Court of Appeals, the attorney may request an oral argument. The attorney must reference this program in the request for oral argument to notify the court of his or her

involvement. The Arizona Court of Appeals, Division 1, will grant such a request in order to encourage lawyers to participate in the Maricopa County Appellate Pro Bono Program.

e. Volunteer Lawyer Training

- i. The Appellate Practice Section of the Arizona State Bar Association will provide training for volunteer lawyers involved with VLP at no cost. Attorneys volunteering under the Modest Means program will receive training at a reduced cost. This training can be used to fulfill Continuing Legal Education (CLE) credit requirements.
- ii. The attorneys of the Appellate Practice Section will also act as mentors and resources for volunteer lawyers.
- iii. The Appellate Practice Section will also maintain a list of volunteer attorneys and will provide this list to VLP and Modest Means. The list will be updated annually.
- iv. Additional training in specific areas of law will be available through the Modest Means Program. This includes a webinar on the basics of family law.

f. Update and Simplify Appellate Self-Help Handbooks

- i. The Appellate Practice Section of the Arizona State Bar Association will continue to update self-help materials for pro per litigants and include this program within the material.

VII. Funding:

- a. Every year, about 480 pro per litigants file cases in the Court of Appeals, Division One, involving civil and family law disputes. Irma Johnson of the Court of Appeals Clerk's Office estimated 30-40 pro per cases are filed each month.
- b. We estimate that of those 480 cases, 25% of pro per litigants will seek legal services after being notified of the program. Therefore, this program can expect to handle about 120-240 cases a year.
- c. The estimated cost for implementing this program is \$10,000.00.
- d. Patricia J. Gerrich, Director of VLP, proposed that her organization could increase an existing staff person's work an average of five hours per week to facilitate the development of the program. This would cost approximately \$10,000.00 a year.
- e. Fundraising efforts began when Kim Dimarchi, in her role as chair of the Appellate Section of the State Bar, contacted appellate practice groups at large law firms in the state and asked for donations. The initial funding of the pilot program was donated by

Lewis and Roca LLP (\$1,000.00), Fennemore Craig (\$1,000.00), Perkins Coie Brown & Bain (\$1,000.00), and Osborn Maledon P.A. (\$500.00).

- f. In addition, a request for funding will be made to the State Bar of Arizona and potentially to non-profit and private funding sources.
- g. Community Legal Services pledged to match fundraising efforts up to \$5,000.00.

VIII. Malpractice Insurance

- a. Volunteer Lawyers Program of Arizona has malpractice insurance that would cover all volunteer lawyers who extend appellate pro bono services through their organization.
- b. The Modest Means Program (***has/does not have***) malpractice insurance to cover all volunteers who extend appellate pro bono services through their organization.

IX. Future Growth of Program

- a. During the last three months of the pilot period, the program will be assessed for effectiveness by the participating organizations. If the program achieves the goals outline above, a committee will be appointed to discuss the feasibility of expanding this program division-wide and to the supreme court.
- b. In addition, the committee will discuss the possibility of using Student Clinics and/or externs from the Sandra Day O'Connor College of Law at Arizona State University and the Phoenix School of Law to assist in providing appellate pro bono services.